

DISCUSSION OF THE AMENDMENT

Claim 1 has been amended to clarify that polymerization is carried out in the miniemulsion; the miniemulsion is not polymerized *per se*. Claim 1 has been additionally, and Claim 21, amended by deleting superfluous language and adding appropriate Markush language, where appropriate.

Claims 11, 12, 14 and 16-20 have been canceled.

No new matter is believed to have been added by the above amendment. Claims 1-10 and 21 are now pending in this application.

### REMARKS

Due to the length of the specification herein, Applicants will cite to the paragraph number of the published patent application (PG Pub) of the present application, i.e., US 2005/0250920, when discussing the application description, rather than to page and line of the specification as filed.

Applicants thank the Examiner for the courtesy extended to Applicants' attorney during the interview held September 25, 2008, in the above-identified application. During the interview, Applicants' attorney explained the presently-claimed invention and why it is patentable over the applied prior art, and discussed other issues raised in the Office Action. The discussion is summarized and expanded upon below.

The rejections of Claims 11 and 12 under 35 U.S.C. §102(e) as anticipated by WO 00/20464, equivalent to US 6,737,483 (Tomov et al), and of Claims 14 and 16-20 under 35 U.S.C. §103(a) as unpatentable over Tomov et al in view of WO 01/44325, equivalent to US 7,129,292 (Kristen et al), is respectfully traversed. Indeed, the rejections are now moot in view of the above-discussed amendment. Accordingly, it is respectfully requested that the rejections be withdrawn.

The rejection of Claims 1, 2, and 4-12 on the ground of obviousness-type double patenting over Claims 1-14 of US 6,800,699 (Schmid et al), is respectfully traversed. **Submitted herewith** is a terminal disclaimer over said patent. Accordingly, it is respectfully requested that the rejection be withdrawn.

The rejection of Claims 1-12, 14 and 16-20 under 35 U.S.C. § 112, second paragraph, is respectfully traversed. The term "polymerizing a miniemulsion" is no longer in Claim 1. Indeed, the rejection is now moot in view of the above-discussed amendment. Accordingly, it is respectfully requested that this rejection be withdrawn.

The rejection of Claims 1-12, 14 and 16-21 under 35 U.S.C. § 112, second paragraph, is respectfully traversed. During the above-referenced interview, the issue of the number of ligands  $L^1$  and  $L^2$  of Formula (I) were discussed. The Examiner suggested that, based on the examples in the specification, there are two ligands  $L^2$  in view of the use of  $Ni(CH_3)_2(TMEDA)$ .

In reply, and as Applicants' attorney pointed out during the interview, one skilled in the art would understand how these ligands are present in the metal complex represented by Formula (I), especially in view of the fact that such nomenclature as recited in the present claims is known as evidenced by Schmid et al, *supra*.

In addition, the following explanation is offered to indicate that the above-discussed examples result in one ligand  $L^1$  and one ligand  $L^2$ .

Ligands  $L^1$  are so-called electron pair donators, which create coordinate bonds. They carry no electrical charge. Tetramethylethylenediamine (TMEDA) is a preferred ligand  $L^1$ , in which case only one nitrogen coordinates with the metal ion, as described at [0065] of the specification. Ligands  $L^2$  are anions, which create ionic bonds with the metal ion. Above-discussed  $Ni(CH_3)_2(TMEDA)$  is an example of a metal ion pre-complex source. An illustration of the reaction scheme is **submitted herewith**. As shown therein, in the final Ni-complex (III), two coordinate bonds are provided by the nitrogen of the salicylaldimine and one nitrogen from TMEDA and two ionic bonds are provided by the phenolate ion and the methyl ion.

For all the above reasons, it is respectfully requested that this rejection be withdrawn.

Applicants respectfully submit that all of the present claims in this application are in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

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